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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,941

02/20/2004

Jeffrey Hemingway

3924-0182

4786

7590

12/29/2004

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EXAMINER

PATEL, DHIRUBHAI R

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,941

Applicant(s)

HEMINGWAY, JEFFREY

Examiner

DHIRU R PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a means for securing the housing to the conduit and clamping means recited in claim 1, an elongated slot recited in claim 2, and tabs recited in claim 5 must be shown or the feature(s) canceled from the claim(s). The examiner suggest showing reference number for a means, a slot, a clamping means and tabs. A proposed drawing correction or corrected drawings are required in reply to the office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered.

Applicant is responsible for showing reference number for claimed invention.

2. Applicant is required to submit a proposed drawing correction in reply to this office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant

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will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: the reference characters must be properly applied, no single reference character being used for two different parts or for a given part and a modification of such part. Such as in the specification on page 4, " a flanged collar 10" while on same page, "the plate 10". Applicant is responsible for providing separate reference number for each part disclosed in the specification. See MPEP § 608.01 (g) .

Applicant is responsible for reviewing the entire specification for each reference number and revise as required.

Appropriate correction is required.

Claim Objections

5 Claims 1-8 are objected to because of the following informalities:

In claim 1 line 6, "said wire" should be -- said wires--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 5, "intemescent materials" is confusing because what is intemescent?. The examiner interpreted as "intumescent material".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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7. Claims 1-8 as best understood, are rejected under 35 U.S.C. § 103 (a) as being unpatentable over A. J. Kwake (2,684,994) in view of Rose (6,252,167).

A. J. Kwake discloses:

Regarding claim 1, a device for use in a wall structure having an opening that is provided with a through conduit (see entire column 1), said device comprising a housing 7 (see fig1, column 1 lines 35 -37), means13 for securing the housing to the conduit (see figs 1, 3 and 6), said housing being of generally rectangular housing shape (see fig 1) and having a rearwall communicating with the interior of the conduit adjacent said rearwall of said housing (see figs 1-2), and clamping means 11, 12 (see fig 3, column 1 lines 35-55) for the wires passing through the conduit and the housing (see fig 1), said wire clamping means serving to minimize the cross-sectional area occupied by the wires at the side of said housing opposite the through conduit (see figs 3 and 6), but fails to disclose an intumescent materials provided in said rectangular housing. Rose teaches the use of an intumescent materials provided in a rectangular housing (see column 2 lines 25-30) in order to presses a fire within the electrical box by expanding the intumescent material into the electrical box in response to heat generated by a fire in the electrical box (see column 2 lines 32-40). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide said rectangular housing of the assembly of Kwake with an intumescent materials as taught by Rose in order to presses a fire within the electrical box by expanding the intumescent material into the electrical box in response to heat generated by a fire in the electrical box.

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Regarding claim 2, the modified assembly Kwake shows all of the claimed features, including said wire clamping means defines an elongated slot (see fig 3) such that wires passing through the slot are arranged along side one another thereby, minimizing the cross-sectional area occupied by the wires contained in said slot (see figs 2-3).

Regarding claim 3, the modified assembly Kwake shows all of the claimed features, but fails to disclose said housing is of metal material in order to minimize distortion due to heat. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Kwake with said housing being made from a metal material , since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 4, the modified assembly Kwake shows all of the claimed features, including wherein said housing is formed integrally with said means securing said housing to said conduit (see fig 1).

Regarding claim 5, the modified assembly Kwake shows all of the claimed features, including wherein said means for securing said housing comprises a plate 13 (see fig 3) having a conduit opening to receive said conduit (see fig 3), said plate having bent tab 15 that are provided, with fastener 16 to clamp the plate to the conduit, and fastener securing said housing to said plate (see fig 1). With respect to tabs and fasteners, It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of tabs and fasteners , since it has been held that mere duplication of

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the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

Regarding claim 6 (6/1; 6/2; 6/3; 6/4; 6/5), the modified assembly Kwake shows all of the claimed features, including wherein said wire clamping means is formed integrally with said housing (see fig 1) , but fails to disclose clamping means being fabricated from metal to minimize distortion due to heat. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Kwake with said clamping means being made from a metal material , since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. With respect to the device according to any of the proceeding claims, it is noted that the modified assembly of Kwake meet the structural limitations.

Regarding claim 7, it is noted that the modified assembly of Kwake meet the structural limitations.

Regarding claim 8, it is noted that the modified assembly of Kwake meet the structural limitations.

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Contact information

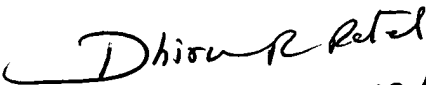
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Dhiru Patel
Primary Examiner
Group Art Unit 2831
December 27, 2004


DHIRU R. PATEL
PRIMARY EXAMINER
12/27/04